

# EXHIBIT 11



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**VIA ELECTRONIC MAIL**

Jonathan Gardner  
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Labaton Sucharow  
140 Broadway  
New York, NY 10005

Re: **Samsung – Mass Arbitration Claims Filed September 7, 2022**

Counsel:

Samsung is investigating potential counterclaims (“Counterclaims”) against each claimant (“Claimant”) that Labaton Sucharow purports to represent in mass arbitrations/multiple consumer case filings against Samsung. Those filings assert claims (“Claims”) under the Illinois Biometric Information Privacy Act (“BIPA”) related to the Gallery App on Galaxy devices, including smartphones and tablets (“Samsung Device(s)").

As Samsung has repeatedly informed Labaton Sucharow, the Claims are frivolous and have been threatened and brought for the improper purpose of attempting to coerce Samsung to make a payment to Labaton Sucharow to avoid potential American Arbitration Association administrative fees totaling hundreds of millions of dollars. To that end, Labaton Sucharow has indicated that the facts of Samsung’s actual conduct are irrelevant. Indeed, when Samsung asked what further information it could provide to satisfy Labaton Sucharow that it does not possess or have access to the alleged biometric information, Labaton Sucharow indicated there is nothing Samsung could provide that would change its mind.

Following a mediation, Labaton Sucharow immediately threatened, including by telephone, to file 50,000 demands for arbitration with the AAA absent an offer from Samsung to pay Labaton Sucharow at least \$50 million. Samsung refused to acquiesce. Notwithstanding the prior indication that there is no evidence Samsung could provide that would change your predetermined course of action, Samsung provided Labaton Sucharow with a signed declaration that further confirms the Claims are baseless. Further, Samsung put you on notice that it would pursue claims and counterclaims against appropriate parties if you proceeded with filing these baseless Claims in arbitration. The potential Counterclaims relate both to the substance of the Claims and their pursuit in arbitration. With full knowledge and information, and purportedly acting on behalf of each Claimant, Labaton Sucharow chose to proceed with the filing of 50,000 demands for arbitration on September 7, 2022. Please confirm that you have previously

informed and have reminded each Claimant of their continuing obligation to preserve and retain all Samsung Device(s), documents, communications (including, without limitation, e-mails, text messages, web or app-based forms, chats, posts, blogs, social media posts and messages), records, and other information that might be relevant to the Claims and potential Counterclaims. Samsung retains the right to inspect all Samsung Devices.

Samsung reserves its rights against all appropriate parties.



Randall W. Edwards  
Partner  
of O'MELVENY & MYERS LLP

cc: Michael McTigue & Meredith Slawe, Skadden, Arps, Slate, Meagher & Flom LLP  
Matthew Powers, O'Melveny & Myers LLP